

In the United States District Court of Delaware

Harry Samuel

Plaintiff

v

Civ. No. 05-037-SLR

Thomas Carroll (Warden)
Rob Young, First Correctional Medical
and Correctional Medical ServiceMotion to Compel Discovery: for FCM

The Plaintiff moves Pursuant to Rules 34(b) and 37(a), Fed. R. Civ. P., for an order Compelling the defendants to Produce for inspection and copying the Interrogatories and documents requested on August 23, 2006.

Affidavit in Support of Motion to Compel

1. Samuel, submit to the U.S. District Court that I am the Plaintiff in this case. I make this affidavit in support of my Motion to Compel discovery.
2. On August 23, 2006, I served on the defendants' counsel (First Correctional Medical) a request for Interrogatories and Production of documents, which is attached as Exhibit -1.
3. The Defendants did not respond to Plaintiff request after 30 days, nor did they request an adjournment from the court or seek my agreement to an adjournment.
4. on October 1, 2006, Plaintiff wrote to defendants Dana Spring Monzo (FCM) Counsel pointing out that their responses were a month and one week late and Plaintiff requesting that defendant respond to Plaintiff Discover Request (produce discovery request). Exhibit -2.
5. Defendant's Counsel did not respond to my letter in over 30 days. Plaintiff do not seek Personal information of staff.
6. Defendant's objections are waived as a result of their failure to make them in a timely manner. Rule 34, Fed. R. Civ. P., Godsey v. United States, 133 F.R.D 111, 113 (S.D. Miss. 1990).

Wherefore, the Plaintiff requests that the court grant this motion in all respects

Date 11-7-2006



Respectfully submitted
Harry L. Samuel, Pro se

To: Ophelia M. Waters, Dana Spring Manzo and Kevin J. Connors
Deputy Attorney General

From: Harry Samuel, Pro Se

SBI# 201360 Petitioner/Plaintiff
Delaware Correctional Center

Civ. No 05-037-SLR

Discovery

Pursuant to Rules 33 and 34, Fed. R. Civ. P., the Plaintiff submits the following interrogatories and request for documents to the defendants. You are directed to answer each of the interrogatories in writing under oath, and produce each of the requested documents for inspection and copying, within 30 days of service. In addition, Request for ADMISSIONS

Pursuant to Rule 36, Fed. R. Civ. P., Plaintiff requests defendants to make the following admissions within 30 days after the service of this request.

1. Any and all Policies, directives, custom, procedure or instructions to staff concerning the use ^{of} hand cuff Restraints, behind Plaintiff's back during dental ~~or~~ Treatment in the Delaware Correctional Center MHU, Maximum Security unit 21, from September 5, 2004 to September 7 thru 2006. If the Policies, directives, custom, procedure is different for MHU Maximum Segregation inmates than for general Population inmates, state both Policies, directives, custom, procedure or instructions. If those Policies, directives, custom, procedure or instructions are set forth in any POLICY, directive, custom, procedure or instructions or other document, Produce the document.
2. Any and all Policies, directives, custom, procedure or instructions to Staff, First Correctional Medical and Correctional Medical Service, Inc., concerning filling Inmates/Plaintiff, teeth/teeth at the Delaware Correctional Center MHU Maximum Security unit 21 during September 5, 2004 to September 7, 2006. If the Policies, directives, custom, procedure is different for MHU Maximum Segregation inmates, than for general

Exhibit - 1

Population inmates, State both Policies, directives, custom, Procedure, regulations or instructions. If those Policies, directives, custom, Procedure, regulations, or instructions are set forth in any Policy, directive, custom, Procedure, regulations or instruction or other document, Produce the document.

3. State the duties of defendant Thomas Carroll and Rob Young, insofar as they Pertain to restraints, handcuffing Plaintiff behind Plaintiff back while forced to sit in the Dental Chair handcuff behind the back during Dental Treatment. If those duties are set forth in any job description or other document Produce the document.

4. State the duties of defendant Thomas Carroll, First Correctional Medical and Correctional Medical Service Inc., insofar as they Pertain to ensuring that Inmates/ Plaintiff tooth is filled in a timely manor. If those duties are set forth in any job description or other document Produce the document.

5. State the Dates with all names, titles and duty of all Delaware Correctional Center staff and First Correctional Medical and Correctional Medical Service Inc., that responded to, examined, Treated, filled, Plaintiff tooth from September 5, 2004, to September 7, 2006. If those duties are set forth in any job description or other document Produce the document.

6. State the names, titles and duty of all staff members, at the Delaware Correctional Center, First Correctional Medical and Correctional Medical Service Inc., who have responsibility for responding to, examining, Treating, Filling Plaintiff tooth/teeth from September 5, 2004 to September 7, 2006. If those responsibilities, duty are set forth in any job description or other document Produce the document.

7. State the names, titles and duty of all Staff members, at the Delaware Correctional Center who have responsibility for Plaintiff being in handcuff Restraints behind Plaintiff back while in the Dental Chair during dental Treatment from September 5, 2004 to June 30, 2006. If those responsibility and duty are set forth in any job description, Policy or other document Produce the document.
8. State the reason Plaintiff was Put in Restraints during Dental Treatment from September 5, 2004 to June 30, 2006.
9. Produce any logs, lists, or other documentation reflecting grievance filed by Plaintiff at the Delaware Correctional Center from September 5, 2004, to September 7, 2006.
10. Produce any and all documents created by any Delaware Correctional Center Staff members, First Correctional Medical and Correctional Medical Service Inc., in response to grievance filed by the Plaintiff in 2004 concerning Plaintiff Dental Care Problem and Treatment.
11. State the Date of response with the names, titles, and duties of all Staff members at the Delaware Correctional Center, First Correctional Medical and Correctional Medical Service Inc., who responded to and who have responsibility for responding to, investigating or deciding Plaintiff grievance filed in 2004. If those duties are set forth in any job description, Policy, directive, or other document, produce the document.

Plaintiff Submit that the Discovery Sought is Relevant to the Claims and Defenses in the Case.

I await your response.

Date 8-23-06

Respectfully Submitted
Very Truly yours
Harry L. Samuel, Pro Se
SBI # 201360
Delaware Correctional Center

Certificate of Service

I, Harry Samuel, hereby certify that I have served a true and correct cop(ies) of the attached: Discovery upon the following parties/person (s): opposing Counsel

TO: Dana Spring Manzo
(McGuire, Lafferty & Mackenty, PA.)
1225 N. King Street, Suite 1100
P. O. Box 397
Wilmington, DE 19899-0397
(FCM)

TO: Ophelia M. Waters
Deputy Attorney General
State of Delaware
Department of Justice
820 North French Street, 6th Floor
Wilmington, Delaware 19801
(Warden, et al)

TO: Kevin J. Corners
(Marshall, Dennehey, Warner,
Coleman & Goggin)
1220 North Market Street
5th Fl. P.O. Box 3888
Wilmington, DE 19899-8888
(CMS, I)

TO: _____

BY PLACING SAME IN A SEALED ENVELOPE and depositing same in the United States Mail at the Delaware Correctional Center, 1181 Paddock Road, Smyrna, DE 19977.

On this 23rd day of August, 2006

Harry Samuel, Pro Se

To. Dana Spring Monzo
First Correctional Medical

From. Harry Samuel, Pro Se
Plaintiff

U. S. District
C.A. No. 05-037-SLR

Plaintiff letter regarding Plaintiff Discovery Request

Plaintiff Points out to your office that federal courts generally require that Parties attempt to resolve discovery disputes themselves before filing motions to compel.

On august 23, 2006. Plaintiff Mailed your office a Discovery request by Plaintiff. As a informal resolution.

Plaintiff requested that your office respond to Plaintiff Discovery request within 30 days of service of Plaintiff Discovery request.

It is now 30 days and one week and Plaintiff did not receive your office response to Plaintiff Discovery request within 30 day of the Date Plaintiff Discovery was Mail to your office.

Plaintiff request that your office produce Plaintiff Discovery request. As a informal resolution.

I await your response.

Date 10-1-2006

Respectfully Submitted
Very truly yours
Harry L. Samuel, Pro se

Exhibit - 2

Certificate of Service

I, Harry Samuel, hereby certify that I have served a true and correct cop(ies) of the attached: Plaintiff letter regarding Plaintiff Discovery Request upon the following parties/person (s):

TO: Dana Spring Manzo
(McCullough & McKenty, PA.)
1225 N. King Street, Suite 1100
P. O. Box 397
Wilmington, DE 19899-0397
(FCM)

TO: Ophelia M. Waters
Deputy Attorney General
State of Delaware
Department of Justice
820 North French Street, 6th Floor
Wilmington, Delaware 19801
(warden, et al)

TO: Kevin J. Connors
(Marshall, Dennehey, Warner,
Coleman & Goggin)
1220 North Market Street
5th Fl. P.O. Box 8888
Wilmington, DE 19899-8888
(CMS, I)

TO: _____

BY PLACING SAME IN A SEALED ENVELOPE and depositing same in the United States Mail at the Delaware Correctional Center, 1181 Paddock Road, Smyrna, DE 19977.

On this 1st day of October, 2006

Harry L. Samuel, pro se

Certificate of Service

I, Harry Samuel, hereby certify that I have served a true and correct cop(ies) of the attached: Motion to Compel Discovery For FCM. (First correctional service) upon the following parties/person (s): oposing Counsel

TO: Dana Spring Monzo TO: _____
(McCullough & McKenty, PA.) _____
1225 N. King Street, Suite 1100 _____
P.O. Box 397 _____
Wilmington, DE _____
19899-0397 _____

TO: _____ TO: _____

BY PLACING SAME IN A SEALED ENVELOPE and depositing same in the United States Mail at the Delaware Correctional Center, 1181 Paddock Road, Smyrna, DE 19977.

On this 7th day of November, 2006

Harry L. Samuel, pro se

IM Harry Samuel
SBI# 201360 UNIT 23, B, 2, U
DELAWARE CORRECTIONAL CENTER
1181 PADDOCK ROAD
SMYRNA, DELAWARE 19977

WILMINGTON, DE 19703
07 NOV 2006 PM 14

To. Office of the Clerk
United States District Court
849 N. King Street, Lockbox 18
Wilmington, Delaware
19801-3570

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